

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS**

Agenda # III.A.1.

Agenda Item Summary: The Board has proposed amending the air quality rules in accordance with House Bill 581, enacted by the 2005 Montana Legislature.

List of Affected Rules: ARM 17.8.759.

Affected Parties Summary: The proposed amendments could affect all parties required to obtain a Montana Air Quality Permit from the Department under the air quality rules.

Scope of Proposed Proceeding: The Board is considering final action on adoption of amendments to the above-referenced rule as proposed in the Montana Administrative Register.

Background: HB 581, enacted by the 2005 Montana legislature, requires the Board to adopt rules providing a period of 15 days in which the public may submit comments on certain draft air quality permits. The legislation also requires the Board to adopt rules providing the basis upon which the Department may extend, by 15 days, this comment period and the period for notifying an applicant of the Department's final decision on approval or denial of an application.

Air quality permits can be complex documents that require considerable review to develop an understanding of the basis for and appropriateness of the conditions contained within them. In some instances, 15 days is insufficient to conduct the necessary review and provide useful comment. Because each source of air pollution, its impact and the circumstances of the affected individuals are unique, circumstances justifying an extension of time may vary widely from one situation to another. Allowing an extension of time when it is necessary for the Department to make an informed decision would allow the Department to consider the unique circumstances of each situation when determining whether an extension of time is warranted. In addition, requiring an extension when federal regulations provide for a 30-day comment period eliminates a potential conflict with those federal regulations.

Hearing Information: Katherine Orr conducted a public hearing on October 3, 2005, on the proposed amendments. The public comments received and the Department's proposed responses are included, respectively, with the Hearing Officer Report and the draft Notice of Amendment attached to this executive summary.

Board Options: The Board may:

1. Adopt the proposed amendments as set forth in the attached Notice of Public Hearing on Proposed Amendment;
2. Adopt the proposed amendments with revisions that the Board finds are appropriate and that are consistent with the scope of the Notice of Public Hearing on Proposed Amendment and the record in this proceeding; or
3. Decide not to adopt the amendments.

DEQ Recommendation: The Department recommends that the Board adopt the proposed amendments, with the revisions shown in the attached draft Notice of Amendment.

Enclosure:

1. Notice of Public Hearing on Proposed Amendment;
2. Hearing Officer Report; and
3. Draft Notice of Amendment.